

IMPROVING EFFICIENCY & EFFECTIVENESS

Modernizing and streamlining regulations and reducing unnecessary regulatory burdens are priorities of the Commission. Some of the Commission's efforts in FY 2000 to date include:

Reductions of Regulatory Burdens

During FY 2000, Commission staff undertook several initiatives to reduce regulatory burdens.

- Foreign FCMs and IBs Accepting Orders from Sophisticated US Customers. In July 2000, the Commission adopted Rule 30.12 to permit certain foreign firms, acting in the capacity of FCMs and IBs, to accept and execute foreign futures and options orders directly from certain sophisticated US customers without having to register with the Commission. The Commission also amended Rule 30.1 to include definitions of "foreign futures and options customer omnibus account" and "foreign futures and options broker."
- Foreign Futures and Options Secured Amount. In October 2000, the Commission issued a revised interpretation of the foreign futures or foreign options secured amount requirement set forth in Rule 30.7. Specifically, the Commission clarified that the requirement for FCMs to obtain an acknowledgement from a depository with respect to the treatment of foreign futures and options customer funds applies only to the treatment of funds by the initial depository.
- Automated System for Buying and Selling Electric Power. On December 16, 1999, a no-action letter was issued permitting the operation and use of an automated system for buying and selling electricity for delivery in the future, without the system operator obtaining contract market designation pursuant to Section 5 of the CEA. The system enables commercial entities that meet specified eligibility requirements to buy and/or sell electricity for on-peak hours in one-month blocks, up to 12 months in advance of delivery. The transactions, which are the result of the anonymous matching of bids to buy and offers to sell electricity, also: 1) establish binding, specific physical delivery obligations; 2) do not allow parties to make cash settlement in lieu of delivery; and 3) do not provide a contractual right to extinguish delivery obligations absent commercial necessity. The relief was granted on conditions that the system operator complete the following: 1) monitor market activity; 2) notify the Trading and Markets program if less than 75 percent of the total volume of electricity contracted on the system, measured on an annual basis and calculated at the end of each calendar month, is delivered; and 3)

maintain transaction and financial records and make those records and other information available to Commission staff upon request.

- Block Trading Proposal: Cantor Financial Futures Exchange. On February 11, 2000, the Commission approved a proposal by the Cantor Financial Futures Exchange, Inc. (CX) to establish block trading procedures at CX. Under CX's block trading program, qualified market participants are allowed to negotiate and arrange futures transactions of a minimum size bilaterally, away from the centralized, competitive market. Once the specific terms of the block transaction are agreed to, the counter-parties report the relevant details of the transaction to the exchange for clearing and settlement. CX's proposal was the first block trading proposal that the Commission received from a contract market. The Commission published CX's proposal for public comment in the *Federal Register* on October 7, 1999. Since the original Commission approval of CX's block trading program, the Trading and Markets program has approved block trading in the CX US Treasury five-year note and two-year Note futures contracts, and the US Agency Ten-year and Five-year futures contracts, on April 21, 2000 and May 12, 2000, respectively.
- Block Trading Proposal: Chicago Mercantile Exchange. On May 19, 2000, the Commission approved a proposal from the CME to establish block trading procedures at CME. CME's proposal was the second block trading proposal that the Commission received and was similar to CX's block trading program. The Commission published CME's proposal for public comment in the *Federal Register* on April 7, 2000.
- Advisory Permitting Average Price Calculations by FCMs. On January 20, 2000, the Commission issued an advisory permitting FCMs to calculate average prices for their customers when multiple prices are received on an order, or series of orders, when permitted to do so by exchange rules. The advisory extended permission for such calculations to trades executed on domestic as well as non-domestic exchanges, thus giving FCMs greater flexibility and increased efficiency through application of a consistent operational function for average pricing on all exchanges. The advisory also established prerequisite conditions for such calculations by FCMs, designed to safeguard customers.
- NYMEX Pilot Program For Trading At Settlement. On November 10, 1999, the Trading and Markets program allowed into effect a NYMEX proposal to allow parties to trade in the spot month of NYMEX's Light Sweet Crude Oil futures contract at the settlement price. The Trading at Settlement program allows market-users to trade Light Sweet Crude Oil futures contracts at the settlement price in order to liquidate open futures that hedged OTC swaps referencing the applicable NYMEX settlement price. The program was implemented as a pilot program.

- *Use of Electronic Signatures by Brokerage Customers, Advisory Clients, and Pool Participants.* The Commission adopted rule changes in March 2000 permitting FCMs, IBs, CTAs, and CPOs to accept from their customers, clients, or pool participants electronic signatures in those instances where Commission rules require registrants to obtain a signature on a document (such as an acknowledgment of receipt of required disclosure). The rule changes included a definition of "electronic signature" patterned on the definition in the recently approved Uniform Electronic Transactions Act and a requirement to employ reasonable safeguards in accepting electronic signatures.

Large Trader Reporting

The Commission has implemented its re-engineered market surveillance computer systems. Some components of the new computer systems became operational in FY 2000 when the mainframe-based computer systems were terminated. During FY 2000 and FY 2001, the Commission completed development of this new system by improving its operational speed, particularly in the regional offices, and by enhancing the quality of the system in a number of areas.

During FY 2000, the Commission worked with several remaining brokerage firms that continued filing reports manually to assist them in converting from the old system of manual filings to the new systems of electronic filings via the Internet. As a result of that effort, all large trader reports are now being filed electronically. This avoids the need to have staff enter the data manually. In May 2000, the Commission raised the reporting levels for 23 commodities to reduce the amount of data that is required to be reported to the Commission by brokerage firms and individual traders. In 2001, the Commission worked with exchanges to replace data filings on magnetic tape with earlier direct electronic transmission of daily surveillance data.

Listing New Contracts Via Exchange Certification

In FY 2001, the Commission modified its rules to permit exchanges to list commodity futures or option contracts for trading without Commission approval of the contract or its terms and conditions. This new listing procedure, adopted as an alternative to procedures for approval of contracts, was subsequently codified by the CFMA. To meet its statutory mission of ensuring market integrity and customer protection and as provided in the CFMA, the Commission places greater reliance on its existing oversight authorities to disapprove, alter, or supplement exchange rules or to take emergency action, as appropriate. Commodity futures and option exchanges assume greater responsibility for ensuring that their new products meet the applicable statutory and regulatory requirements through cooperation with the Commission which will exercise greater oversight authority with decreased direct regulation.

Exchange Database System

The Commission continues to evaluate the Exchange Database System in light of its future needs, particularly emerging trading technologies and rapidly changing markets, in order to determine and implement the most appropriate means of meeting those needs. In FY 2000, the Commission focused on the maintenance requirements of its client-server environment, and continued development of an enhanced system, which will meet the challenges of the future by providing tools of increased sophistication. These tools will aid futures trading investigators in discerning patterns of trading that suggest potential violations and complex patterns of violations, particularly violations that may be facilitated by the increased use of electronic trading systems. The system will enhance the types of data maintained and the frequency and methods through which data can be accepted. The Commission expects to issue a contract so that implementation may take place in phases beginning in FY 2002.

Electronic Filing and Record-keeping

The Commission continues its efforts to develop and implement electronic filing programs that increase efficiency in electronic storage media while maintaining necessary safeguards. After extensively testing and modifying the electronic filing software, the Commission found it reliable for the transmission, receipt, and review of financial reports. In this connection:

- Approximately 80 CME and CBT member-FCMs now file financial reports electronically with the Commission's three regional offices, in New York, Chicago, and Kansas City. These FCMs now use the same electronic filing software to simultaneously file the same financial reports with the CBT, CME, and the Commission, thereby reducing a regulatory reporting burden on those firms. Almost all CME and CBT member firms file their financial reports electronically on a monthly basis.
- The Commission recently began testing electronic filing with about 15 FCMs whose designated SRO is the NYMEX. Testing has progressed well, since NYMEX firms use the same electronic software as does CME, CBT, and the Commission. After a short testing period, the Commission anticipates these additional FCMs will be able to cease filing paper copy reports with the Commission.
- Approximately one-half of the FCMs registered with the Commission are not exchange members. Most of these FCMs continue to file their financial reports with the NFA and with the Commission in paper form only. Because of NFA's special needs, it adapted a different form of electronic filing software than that used by CME, CBT, NYMEX, and the Commission. However, in doing so, NFA agreed to convert to a Commission-compatible format, and give to the Commission the financial report data it receives in electronic form. The converted data can be made to be compatible with the

Commission's existing electronic data so that it can be processed and analyzed using the Commission's analysis software. NFA does not require its member FCMs to file monthly financial reports, nor does it require that financial reports be filed electronically. More than 85 FCMs continue to file paper copy reports, while fewer than 15 FCMs file electronically. As a result, the Commission has not been able to adequately test NFA's file format conversion or its procedures to retransmit financial data to the Commission in a timely manner. If NFA ultimately receives most of its financial reports electronically, and the conversion process proves to be viable and timely, the Commission will explore with NFA the best possible filing procedures for these FCMs. One possible result will be that the Commission could consider amending its rules to allow NFA to become an official filing site for these FCMs. As an official filing site, NFA would be responsible for transmitting the financial reports to the Commission. FCMs filing financial statements with an official filing site would be relieved of filing the same statement concurrently with the Commission.

Use of the Internet

The Commission uses the Internet to make information and assistance available to the general public. The Commission Web site (<http://www.cftc.gov>) provides information about the Commission and its work, including press releases; speeches of Commissioners; the *Weekly Advisory* (which includes Commission events, meetings, news, seriatim actions, *Federal Register* notices and comment periods, initial decisions, and opinions and orders), the *Commitment of Trader Reports*, and other reports from the Market Surveillance, Analysis, and Research program; and the *Proceedings Bulletin*. The Commission Web site also provides the public with information concerning trader sanctions, registration suspensions, and reparations. The Web site also hosts a public questionnaire that encourages the public to report suspected commodity market abuses.

During FY 2001, the Commission redesigned its Internet Web site to comply with the Section 508 of the Rehabilitation Act making federal information readily accessible to those with disabilities.

Internet Monitoring

The Commission monitors the Internet for illegal activity involving futures and options. The Division of Enforcement investigators review the contents of futures and options related Web sites to identify potential misconduct. This monitoring of the Internet has generated dozens of enforcement inquiries concerning issues such as possible misrepresentations of the success of trading programs and the offer of potentially illegal products that are not traded on a trading facility designated or registered by the Commission. Several enforcement actions have been filed where the violative conduct involved use of the Internet. For example, on May 1 and September, 2000, the

Commission filed a total off 15 such enforcement actions, 10 of which originated from the Enforcement program's own Internet surveillance. See "Internet Project Cases" found in Goal Two of the FY 2000 Annual Performance Report, page 201 for a description of these actions.

In addition to its Internet surveillance program, during FY 2000 Commission staff participated in two interagency "Internet Surfs." During the week of February 28, 2000, the Commission participated with law enforcement and consumer protection agencies from 27 countries in an interagency Internet surf. The Commission alone examined approximately 300 Internet Web sites and identified dozens for follow-up review. On March 28, 2000, the Commission participated in an international Internet surf day organized by IOSCO that included the participation of 21 regulators in 18 countries. The sites identified for follow-up review by the Commission (and NFA) during these surfs involve commodity futures and options in a variety of settings, such as: computerized trading systems promising highly successful buy and sell signals; trade recommendations based on seasonal trends in the prices of commodities like heating oil and gasoline; and purported profit opportunities on commodities such as foreign currencies (or forex), precious metals, and stock indices.

Enforcement Modernization Project

As part of the Enforcement Modernization Project (EMP), the Commission's Enforcement program, OIRM, and Office of the Inspector General (OIG) have undertaken a far-ranging review and certain enhancements of the automated systems that Enforcement program staff use for recording and tracking enforcement-related data. During FY 2000, the Commission conducted extensive market research and issued a request for proposals with respect to Phase Three of the EMP, which contemplates the solicitation, selection, and implementation of a commercial software application able to perform three functions: 1) case management, workflow, and reporting, which will provide the Enforcement program with a centralized relational database that will allow the tracking of all enforcement activity including the ability to create and monitor progress on investigation, discovery, and litigation plans and that also will give the Enforcement program the ability to extract data from the system to more effectively meet its various reporting obligations; 2) document management, which will allow the Enforcement program to capture, store, and index electronic copies of all documents obtained in the course of investigations and litigation so that Enforcement staff may have quick and efficient access to them through the Commission's personal computers; and 3) litigation support, which will provide Enforcement staff with tools to simplify core litigation tasks such as locating, organizing and categorizing witness statements and document information, and to more efficiently prepare case plans and witness profiles for use in taking testimony and at trial. The submitted proposals did not meet the Commission's requirements. In FY 2001, with the establishment of a formal information technology capital investment

process, the Executive Management Council, CFTC senior business managers, chartered an Integrated Project Team (IPT) to validate the Phase III requirements of the EMP and to also consider similar requirements from other lines of business.

Consumer Advisories

In FY 2000, the Commission issued two new Consumer Advisories. In general, the Consumer Advisories alert the public to warning signs of possible fraudulent activity and list precautions that individuals should take before committing funds. The Commission issued press releases regarding the Advisories to consumer publications and posted the text of the Advisories on the Commission Web site (<http://www.cftc.gov/opa/alerts.htm>) and with several futures-related Internet newsgroups.

Commodity Trading Systems Advisory. On May 1, 2000, the Commission issued a Consumer Advisory warning the public about Web sites selling commodity trading systems that guarantee high profits with minimal risk. The Advisory warns consumers that commodity futures and options are typically high-risk endeavors; no computer trading system can guarantee profits; and the hypothetical results used by many trading system promoters to advertise their systems can be unreliable.

Precious Metals Advisory. On July 5, 2000, the Commission issued a Consumer Advisory warning the public of companies that purportedly sell investments in precious metals and other commodities based on sales pitches fraudulently claiming that customers can make a lot of money, with little risk, by purchasing metal through a financing agreement. In the Advisory, the Commission warns that companies making such sales pitches often overstate profit potential while minimizing the risk involved; falsely claim that they are purchasing and storing the metal; and charge phony "storage" and "interest" fees.

Enforcement Task Forces

In August 1998, the GAO published its report concerning the Enforcement program's efforts following its reorganization in late 1995 and early 1996. (GAO Report GAO/GGD-98-193.) GAO acknowledged the many efforts the Commission made in the three years since the initial study and made certain specific recommendations to further strengthen the Enforcement program. The Commission followed up on these recommendations, in part, through Enforcement program task forces, such as those focused on staff training and the creation of the electronic Enforcement Procedures Manual.

- *Enforcement Training Program.* The Enforcement program formed a task force composed of attorneys and investigators representing its headquarters and regional offices to determine what further training is required by staff, to identify—and where feasible, cre-

ate—training opportunities, and to ensure that these opportunities are made available to staff members at the appropriate points in their careers. In FY 2000, the task force completed its survey of Enforcement staff regarding their training experiences and needs. As a result of the task force's suggestions, the Enforcement program completed the following: 1) developed in-house training opportunities for new staff, and made training a topic in each employee's performance reviews in order to give staff an opportunity to request specific training to enhance their job performance; and 2) changed the schedule of the program's annual conference to approximately once every 18 months in order to free resources and time to provide intensive training in areas such as questioning techniques to a significant portion of the staff.

- *Enforcement Procedures Manual.* The Enforcement program also formed a task force that developed a comprehensive and user-friendly electronic procedures manual that provides program staff with guidance in all critical areas of the program. In FY 2000, the manual was completed and made available on-line to Enforcement program staff nationwide. It includes a comprehensive outline of information critical to the Enforcement program with hyperlinks to instruction materials, related statutes, and relevant authorities. The procedures manual will be updated regularly to maximize its usefulness to program staff and to ensure its timeliness.

Many other initiatives undertaken by the Enforcement program have revitalized it to take bold steps in recommending novel enforcement actions and appropriately significant sanctions. The Enforcement program continues to search for ways to enhance its effectiveness both procedurally and substantively.

No-Action Process Streamlined

During FY 2000, the Commission made significant progress in reducing the pending no-action requests for futures contracts on foreign stock indices traded on foreign exchanges. These requests involve complex regulatory issues and close coordination with the SEC. The reduction of pending requests was greatly facilitated after a meeting between the Commission and SEC officials held on February 22, 2000. At that meeting, the SEC agreed to streamline its review process and reached a consensus with the Commission on several regulatory issues. As a result, the Commission has issued no-action relief for 16 foreign exchange-traded stock index futures contracts listed on six different exchanges during FY 2000—more than during any prior fiscal year. The previous high was six contracts during FY 1994. Also as a result of the February meeting, the Commission and the SEC agreed that letters would be issued deeming requests withdrawn that did not meet Commission criteria or were stale. The Commission issued seven such letters during FY 2000.

Financial Management Improvements

- *Federal Agencies Centralized Trial-Balance System II.* In an effort to streamline financial management reporting to US Treasury, the staff of OFM implemented a new Internet-based software application, Federal Agencies Centralized Trial-Balance System II (FACTS II) for FY 2001. FACTS II software was successfully installed and used to report 1st quarter FY 2001 budget execution data to fulfill the requirements of the Report on Budget Execution (SF-133), the Year-End Closing Statement (SF-2108), and much of the initial set of data that will appear in the prior year column of the Program and Financing Schedule. FACTS II reporting enables staff to submit one set of financial data, thereby eliminating reconciliation of data and duplicate reporting. It improves the consistency of data reported across the government by relying on the US Standard General Ledger account adjusted trial balances.
- *Travel Management Upgrade.* In FY 2000, the Commission upgraded its automated travel management system which streamlines the issuance of travel authorizations, vouchers, and travel-related electronic and paper records. OFM uses these electronic records to keep pace with the growing workload without an increase in administrative staff. The upgrade, a Web-based version of the original software, is easier to use and provides additional management reports, better auditing methods, and on-line rates for contract carriers, car rentals, and lodging.
- *Migration of the Financial Management System from Mainframe.* In FY 2000, OFM migrated to the Department of the Interior's (DOI) Federal Financial System (FFS) application through a cross-servicing agreement. The application and mainframe support provided by DOI provided the agency with the ability to meet Year 2000, Debt Collection Improvement Act (DCIA), and JFMIP requirements for an integrated financial system. As an added feature, the new system will provide a fixed assets tracking subsystem that integrates accounting and financial transactions with the Commission's inventory process. In FY 2001, the FFS application was upgraded to meet US Treasury FACTS II reporting requirements. Data attributes were added to the application to report federal intra-governmental transactions and general ledger accounts at the four-digit SGL level.
- *Improved Procurement Process and Policy.* In FY 2000, OFM continued its efforts to redefine the way the Commission conducts its procurement and contracting business. The push to reengineer these functions stems from changes in federal acquisition laws aimed at streamlining the acquisition of goods and services. Achievements in the past year include:
 - The hiring of two full-time contracting officers;
 - A comprehensive review of the Commission's major contracts that resulted in significant financial savings over the remaining years of the contracts;

- The designation of contracting officer technical representatives (COTRs) to monitor contractor performance on major Commission contracts;
 - The establishment of technical evaluation committees to evaluate and participate in the determination of "best value" on all significant requests for proposals;
 - The issuance of 32 Bank of America purchase cards to staff across the Commission to decentralize the procurement function and to improve the efficiency of the ordering of goods and services;
 - The issuance of formal delegations of purchasing authority to those personnel who are trained in simplified acquisition practices and are aware of and comply with the laws, regulations, and policies that govern their acquisition activities;
 - The competition of the Commission's procurement requirements to a wide range of vendors to ensure that the government gets the "best value" for its money—which means asking ordering offices to solicit at least three sources before a selection is made on orders over \$2,500 in value;
 - The issuance, effective October 1, 1999, of the Commission's first policy on ordering goods and services—*The Simplified Acquisition Policy*—to formalize our new business practices and culture. The benefits of the policy are designed to ensure that the Commission: 1) acquires goods and services that represent the best value reasonably available; and 2) complies with the laws and regulations that govern procurement and contracting in the federal government. Decentralizing the procurement function is designed to improve the efficiency with which goods and services are ordered to fill program requirements.
- *Annual Performance Reporting.* The Government Performance and Results Act of 1993 (GPRA) seeks to improve the effectiveness, efficiency, and accountability of federal programs by requiring federal agencies to set goals for program performance and to report on annual performance compared with the goals. Annual program goals are to be set out in annual performance plans, and performance against these goals is to be reported in annual performance reports. In April 2001, the Commission submitted its FY 2000 Annual Performance Report to Congress and OMB—an annual submission mandated by GPRA.

Automated Access to Research Information

The Commission provides its employees with automated research tools that make information readily accessible at their desktops and provide faster and more efficient search and retrieval capabilities. The Commission Library has installed a Windows-based integrated library system, Horizon, which enhances employee access to library materials. All catalog records have been successfully transferred

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from the previous system and all new borrower records have been included in Horizon. Presently, the system is available only on terminals in the library. The system will be available to all Commission employees at their desktops by the end of FY 2002.

Information Technology Improvements

In FY 2000, the Commission eliminated its mainframe computer, replacing the mission support systems that were housed on that computer with client-server based information systems.

The reengineering of the Integrated Surveillance System, which tracks futures and option data on a daily basis, was completed, resulting in a client-server system with improved capability to match anticipated changes in the futures industry.

The capacity of the Commission's local and wide area networks was increased to allow greater volumes of information to be shared by Commission staff.

During FY 2001, the Commission will begin to implement the recommendations of an independent, external information technology assessment. The critical recommendations include the following: 1) reestablishment of a priority-setting body consisting of senior operating division managers; 2) major increases in the staffing levels of OIRM; and 3) attention to staff morale issues to counter staff hiring and retention problems that could cripple the Commission's IT program. The Commission will also: 1) resume reengineering the Exchange Database System, which tracks monthly trade data information; 2) improve the performance of the reengineered Integrated Surveillance System; 3) continue to modernize support for the Enforcement program's activities; 4) deploy a pilot video-conferencing application; 5) begin to reengineer its information resource management processes as identifies in the assessment; and 6) assess the potential application of Web technology to provide Commission staff with access to agency systems.

Office of Administrative Services

In FY 2001, OAS, with collaboration from OIRM, purchased and installed equipment to standardize the agency's main conference rooms. This enhancement has increased the capabilities in each room and ensures that all rooms are equipped with appropriate audio-visual equipment. Major HVAC corrections have been completed for several data rooms, including the main Computer Room, creating a comfortable workspace environment and safeguarding major IT equipment.

In addition, a new digital ID system has been installed. The new system establishes a secured database that identifies employees by automated pictures as well as personal identification. The new system can immediately replace lost or stolen ID cards.

OAS is conducting meetings with other OED offices to identify ways to streamline OAS activities and improving organizational efficiency for FY 2002.

Improved Access to Human Resources Information

The Commission continues to design, test, and implement government-wide human resources systems that will provide efficient and effective customer services. Since its inception, the Commission has worked with a group of other small agencies and Office of Personnel Management (OPM) to create and refine systems, including:

- Alternative Dispute Resolution. This is an effective and efficient program of alternative methods to resolve workplace disputes, EEO complaints, and employee grievances. Methods include facilitation, conciliation, early neutral intervention, fact-finding, mediation, and cooperative problem-solving.
- Delegated Examining Unit. This unit has assumed examination authority under a delegation from OPM, enhancing the Commission's ability to fill vacant positions expeditiously.
- Document Scanner. OHR produces electronic versions of documents by scanning position descriptions, vacancy announcements, and human resources reports. These documents are made available to managers and supervisors via the Commission's intranet, Open Interest.
- Employee Assistance Programs (EAP). To enhance the well-being of its employees, the Commission implemented a free, confidential counseling program. Employees experiencing job-related problems and their family members have nationwide 24-hour access to counselors.
- Employee Express. This system allows federal employees to make changes to their personnel and payroll data and benefits elections by phone or over the Internet.
- Employee Resource Center. An expanding resource center that circulates self-directed learning tools, including videos, books, resource locators, Web sites, literature and materials encompassing career and life planning, training and development, health, employee assistance, and work/life balance.
- Health and Wellness. The fitness center is a convenient, award-winning facility used to enhance the well-being of employees. The Commission has five health units that provide for walk-in care and treatment, with additional services to include immunizations, physical examinations, health screenings, and various promotion and outreach efforts.

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- Open Interest, the Commission's Intranet. Open Interest provides Commission employees immediate access to human resources references, such as the National Finance Center (NFC), OPM, and the Thrift Savings Plan.
- Replacement Timekeeping Software. The new NFC System for Time and Attendance Reporting (STAR) will be installed during FY 2001 and will improve speed, data security, and training for new timekeepers.
- Videotaped Training Programs. Videotaping the Industry/Legal/Technical Program and the Human Resource Fundamentals Program for Managers has made it possible for employees to review this information when it suits their schedule. They can check-out these videotapes for home use or view them on-site in the newly expanded Employee Resource Center.